

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 497 - HB 1724

March 30, 2009

SUMMARY OF BILL: Creates a new Class E felony of retail theft of possessing or attempting to use any anti-shoplifting or inventory control device countermeasure within any retail premise. A second or subsequent conviction of retail theft is a Class D felony if the stolen property has a value in excess of \$999.99. Authorizes the court to order the offender to perform public service in lieu of a fine.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$711,000/Incarceration*

Assumptions:

- According to the 2007 Tennessee Bureau of Investigation Crime in Tennessee Report, there were 140,839 theft offenses statewide with approximately eight percent (11,390) of those relating to shoplifting.
- According to the Department of Correction (DOC), there has been an average of 323 admissions for theft in each of the past 10 years. DOC estimates 10 percent (33) of those admissions were related to shoplifting. Approximately 50 percent (17) of those would already be convicted for Class E theft offenses. The remaining 16 (33-17) would be convicted for retail theft as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in two additional offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 18 offenders.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2009 is \$59.80 and the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for 18 offenders is \$639,865.98 (\$35,548.11 x 18).
- DOC estimates two additional offenders per year would be admitted for possession or attempted use of an anti-shoplifting or inventory control

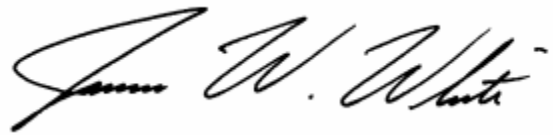
device in a retail shop and would receive a Class E felony. The total additional operating cost for two offenders is \$71,096.22 (\$35,548.11 x 2).

- Second or subsequent offenses for retail theft would already be punished as theft and would not result in additional incarceration costs for the Department.
- Since this bill creates a new offense, no recidivism discount has been included.
- Any impact on caseloads in the state trial courts can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc